BILL NO. 11

Government Bill

1st Session, 60th General Assembly
Nova Scotia
55 Elizabeth II, 2006

An Act Respecting Licensed Practical Nurses

CHAPTER 17
ACTS OF 2006

AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
NOVEMBER 23, 2006

The Honourable Chris A. d'Entremont
Minister of Health

Halifax, Nova Scotia
Printed by Authority of the Speaker of the House of Assembly

An Act Respecting Licensed Practical Nurses

Be it enacted by the Governor and Assembly as follows:

1 This Act may be cited as the *Licensed Practical Nurses Act*.

2 In this Act,

(a) "active-practising licence" means a licence to practise practical nursing issued to a person who meets the criteria for entry in the active-practising roster as set out in the regulations;

(b) "active-practising member" means a member who holds an active-practising licence;

(c) "Board" means the Board of the College;

(d) "by-law" means a by-law of the College;

(e) "client" means the individual, group, community or population who is the recipient of nursing services and, where the context requires, includes a substitute decision maker for the recipient of nursing services;

(f) "code of ethics" means the minimal ethical expectations of any licensed practical nurse in any setting or role, as approved by the Board;

(g) "College" means the College of Licensed Practical Nurses of Nova Scotia;

(h) "competence" means the ability to integrate and apply the knowledge, skills and judgement required to practise safely and ethically in a designated role and practice setting and includes both entry-level and continuing competencies;

(i) "complaint" means a notice in writing to the College from any person, including the College, alleging professional misconduct, conduct unbecoming the profession, incompetence or incapacity of a member;

(j) "Complaints Committee" means the Complaints Committee established under this Act;

(k) "conduct unbecoming" means conduct in a member's personal or private capacity that tends to bring discredit upon the licensed practical nursing profession;

(l) "continuing competence" means the ongoing ability of a licensed practical nurse to integrate and apply the knowledge, skills and judgement required to practise safely and ethically in a designated role and setting;

(m) "continuing competence program" means a program approved by the Board that focuses on promoting the maintenance and enhancement of the continuing competence of licensed practical nurses throughout their careers;

(n) "Education Committee" means the Education Committee established pursuant to this Act;

(o) "electronic means" means the use of telephone, fax, television, video conferencing, cable, internet, intranet or any form of electronic or computerized communication;

(p) "entry-level competencies" means the integrated knowledge, skills and judgment expected and required of practical nursing students when they graduate from a practical nursing education program as approved by the Board;

(q) "Executive Director-Registrar" means the Executive Director-Registrar of the College;

(r) "former Act" means Chapter 7 of the Acts of 2001, the *Licensed Practical Nurses Act;*

(s) "graduate practising licence" means a licence issued to a person who meets the criteria for entry into the graduate practising roster as set out in the regulations;

(t) "hearing" means a process before a professional conduct committee following the issuance of a notice of hearing where the parties hear evidence and make submissions to the professional conduct committee but does not include the consideration by a professional conduct committee of a settlement proposal or an application for consent revocation or any hearing or any proceeding before the Complaints Committee or Fitness to Practise Committee;

(u) "incapacity" means the status whereby a respondent, at the time of the subject-matter of a complaint, suffered from a physical, mental or emotional condition, disorder or addiction that rendered the respondent unable to practise practical nursing with reasonable skill or judgement or that may have endangered the health or safety of clients;

(v) "incompetence" means the display of lack of knowledge, skill or judgement in the respondent's care of a client or delivery of practical nursing services that, having regard to all the circumstances, rendered the respondent unsafe to practise practical nursing at the time of such care of the client or delivery of practical nursing services or that renders the respondent unsafe to continue in the practice of practical nursing without remedial assistance;

(w) "investigator" means the Executive Director-Registrar or a person or persons designated by the Executive Director-Registrar to conduct or supervise an investigation into a complaint;

(x) "legal proceeding" means any civil proceeding, inquiry, arbitration, proceeding before any tribunal, board or commission, any investigative process carried out pursuant to this Act or the regulations or any other Act or regulations, any proceeding or hearing before the Complaints Committee or the Professional Conduct Committee pursuant to this Act or the regulations, in which evidence is or may be given, and includes an action or proceeding for the imposition of punishment by fine, penalty or imprisonment for the violation of a Provincial enactment, but does not include any proceeding or hearing conducted pursuant to this Act or the regulations;

(y) "licence" means a licence issued pursuant to this Act;

(z) "licensed practical nurse" means a person who is licensed as a practical nurse pursuant to the regulations;

(aa) "licensing sanction" means

(i) the imposition of conditions or restrictions on a licence by the Complaints Committee or the Professional Conduct Committee or their equivalent from another jurisdiction,

(ii) a consent reprimand ordered by the Complaints Committee or its equivalent from another jurisdiction,

(iii) a reprimand issued by the Professional Conduct Committee or its equivalent from another jurisdiction,

(iv) a suspension of a licence by the Complaints Committee or the Professional Conduct Committee or their equivalent from another jurisdiction,

(v) a revocation of registration by the Professional Conduct Committee or its equivalent from another jurisdiction;

(ab) "medical practitioner" means a person licensed by the College of Physicians and Surgeons of Nova Scotia to practise medicine pursuant to the *Medical Act*;

(ac) "member" means a person whose name is entered in one of the licensing rosters of the College;

(ad) "non-member" means a person who is not and never has been a member under this Act, but is or was a member of a health profession established by statute in the Province;

(ae) "nursing services" means the application of practical nursing theory in the

(i) assessment of clients,

(ii) collaboration in the development of the nursing plan of care,

(iii) implementation of the nursing plan of care, and

(iv) ongoing evaluation of the client,

for the purpose of

(v) promoting health,

(vi) preventing illness,

(vii) providing palliative and rehabilitative care, and

(viii) assisting clients to achieve an optimal state of health;

(af) "party" means the College or a respondent, as the context requires;

(ag) "practical-nursing education program" means a program approved by the Board as a requirement for registration under this Act;

(ah) "practice of practical nursing" means the provision of nursing services

(i) independently, for clients considered stable with predictable outcomes, and

(ii) under the guidance or direction of a registered nurse, medical practitioner or other health care professional authorized to provide such consultation, guidance or direction, for clients considered unstable with unpredictable outcomes;

(ai) "predictable" means the extent to which one can identify in advance a client's response on the basis of observation, experience or scientific reason;

(aj) "professional-conduct process" means the processes described in Part V and the related regulations;

(ak) "Professional Conduct Committee" means the Professional Conduct Committee established under this Act;

(al) "professional misconduct" includes such conduct or acts relevant to the practice of practical nursing that, having regard to all the circumstances, would reasonably be regarded as disgraceful, dishonourable or unprofessional and, without limiting the generality of the foregoing, may include

(i) failing to maintain the College of Licensed Practical Nurses of Nova Scotia Code of Ethics or Standards of Nursing Practice,

(ii) abusing a person verbally, physically, emotionally or sexually,

(iii) misappropriating personal property, drugs or other property belonging to a client or a member's employer,

(iv) inappropriately influencing a client to change a will or obtaining a power of attorney,

(v) wrongfully abandoning a client,

(vi) failing to exercise appropriate discretion in respect of the disclosure of confidential information,

(vii) falsifying records,

(viii) inappropriately using professional nursing status for personal gain,

(ix) promoting for personal gain any drug, device, treatment, procedure, product or service that is unnecessary, ineffective or unsafe,

(x) publishing, or causing to be published, any advertisement that is false, fraudulent, deceptive or misleading,

(xi) engaging or assisting in fraud, misrepresentation, deception or concealment of a material fact when applying for or securing registration or a licence to practise practical nursing or taking any examination provided for in this Act, including using fraudulently procured credentials,

(xii) taking or using the designation "licensed practical nurse", "nurse" or any derivation or abbreviation thereof, or describing the person's activities as "nursing" in any advertisement or publication, including business cards, websites or signage, unless the referenced activity falls within the definition of "practice of practical nursing" pursuant to this Act;

(am) "public representative" means a person who is not and never has been a member under this Act and is not a member and never has been a member of a health profession established by statute in the Province;

(an) "Register" means the Register of the College kept pursuant to this Act;

(ao) "registered nurse" means a person licensed to practise nursing pursuant to the *Registered Nurses Act*;

(ap) "Registration Appeal Committee" means the Registration Appeal Committee established under this Act;

(aq) "Re-instatement Committee" means the Re-instatement Committee established under this Act;

(ar) "respondent" means a person who is the subject of a complaint;

(as) "roster" means the record of the category of licensing established pursuant to this Act or the regulations;

(at) "scope of practice" means the designated roles, functions and activities that a licensed practical nurse is educated, competent and authorized to perform within the practice of practical nursing;

(au) "self-assessment tool" means any document or information prepared for the purpose of the continuing competence program by a member containing a self-assessment of the member;

(av) "settlement proposal" means a proposal for the settlement of a complaint as prescribed in the regulations;

(aw) "stable" means a situation in which the client's health status can be anticipated with predictable outcomes;

(ax) "standards for nursing practice" means the minimal professional practice expectations for any licensed practical nurse in any setting or role, approved by the Board or otherwise inherent in the nursing profession;

(ay) "temporary licence" means a temporary licence issued pursuant to this Act;

(az) "unpredictable" means that a client's health outcome cannot reasonably be expected to follow an anticipated path;

(ba) "unstable" means a situation in which a clients' health status is fluctuating with atypical responses, the care is complex requiring frequent assessment of the client and modification of the care plan and the client is managed with interventions that may have unpredictable outcomes or risks;

(bb) "witness" includes any member or officer, director or employee of the College or any other person who, in the course of a legal proceeding, is examined orally for discovery or is cross-examined upon an affidavit made by that person, answers any interrogatories or makes an affidavit as to documents, or is called upon to provide information or answer any question either orally or in writing or produce any document, whether under oath or not.

PART I

COLLEGE OF LICENSED PRACTICAL NURSES OF NOVA SCOTIA

3 **(1)** The College of Licensed Practical Nurses of Nova Scotia is continued as a body corporate and, subject to this Act, has the capacity, rights, powers and privileges of a natural person.

(2) The College has perpetual succession and a common seal, with power to acquire, hold, lease, mortgage and otherwise dispose of real and personal property, and may sue and be sued.

4 In order to

(a) serve and protect the public interest;

(b) preserve the integrity of the practical nursing profession; and

(c) maintain public confidence in the ability of the practical nursing profession to regulate itself,

the College shall

(d) regulate the practice of licensed practical nursing through

(i) the registration, licensing, professional conduct, education program approval and other processes set out in this Act and the regulations, and

(ii) the development, approval and promotion of a code of ethics, standards of nursing practice, entry level competencies and a continuing competence program;

(e) in the public interest, advance and promote the practice of practical nursing;

(f) encourage members to participate in affairs promoting the practice of practical nursing in the best interest of the public; and

(g) do such other lawful acts and things that are incidental to the exercise of the duties referred to in clauses (d) to (f).

5 In addition to any other power conferred by this or any other Act, the College may do such things as it considers appropriate to advance the objects of the College and, without limiting the generality of the foregoing, may

(a) purchase, take in, lease, exchange, hire, construct and otherwise acquire and hold, sell, mortgage, hypothecate, lease out or otherwise deal with any real or personal property;

(b) draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange, warrants and other negotiable and transferable instruments;

(c) engage such agents and employees as it, from time to time, deems expedient;

(d) expend the moneys of the College in the advancement of its objects and the interests of the profession of practical nursing in such manner as it deems expedient;

(e) establish and maintain such offices and agencies as it deems expedient;

(f) invest and deal with any moneys and funds of the College that are not immediately required, in such manner as it deems expedient;

(g) improve, manage, develop, exchange, dispose of, turn to account or otherwise deal with the real or personal property of the College;

(h) borrow money for the use of the College on its credit, limit or increase the amount to be borrowed, issue bonds, debentures, debenture stock and other securities on the credit of the College and pledge or sell such securities for such sums or at such prices as may be deemed expedient;

(i) do such things as are incidental or necessary to the exercise of the powers referred to in clauses (a) to (h).

PART II

BOARD

6 **(1)** There shall be a Board of the College composed of such number of persons as set out in the regulations.

(2) Notwithstanding subsection (1), non-member and public representation on the Board shall be not less than thirty-three per cent and not more than forty-nine per cent of the total number of persons on the Board.

(3) Non-member and public representatives on the Board shall be elected or appointed or succeed to office in the manner prescribed by the by-laws.

(4) Notwithstanding subsection (3), non-member and public representatives on the Board hold office until their successors are appointed or until such time as they are re-appointed.

7 **(1)** The Board shall appoint an Executive Director-Registrar of the College who shall carry out such duties as this Act provides or the Board determines.

(2) The Board shall determine the terms of office and the duties of the Executive Director-Registrar.

(3) The Executive Director-Registrar may delegate any functions assigned to the Executive Director-Registrar by this Act or the regulations.

8 The Board shall govern the College and manage its affairs and may take any action consistent with this Act and the regulations that it considers necessary for the promotion, protection, interest and welfare of the College, including the setting of fees payable by applicants and members.

9 **(1)** The Board may make by-laws

(a) approving the Code of Ethics, Standards of Practice and entry level competencies applicable to members;

(b) establishing and regulating examinations required as a prerequisite to qualifying an individual as a licensed practical nurse;

(c) fixing and regulating the time and place of annual, regular and special general meetings of the College;

(d) prescribing the seal of the College;

(e) providing for the management of the College, including the keeping of the Register;

(f) providing for the execution of documents by the College;

(g) providing for the establishment of forms and providing for their use;

(h) providing procedures not inconsistent with this Act for the making, amending and revoking of regulations and by-laws;

(i) providing for the elections and appointments to the Board;

(j) respecting the composition, powers and duties of such committees as may be appointed by the Board, and providing for the holding and conduct of meetings of such committees;

(k) respecting information to be included in the Register;

(l) respecting the type of professional liability insurance or other form of malpractice coverage or liability protection a member must hold;

(m) respecting all other things necessary for the administration of the affairs of the College.

(2) With the approval of the Governor in Council, the Board may make regulations

(a) respecting the composition of the Board;

(b) respecting the terms of office of the persons sitting on the Board and the manner in which vacancies on the Board are to be filled;

(c) allowing for the placement of restrictions or conditions on a member's licence to practise practical nursing;

(d) creating one or more rosters of licensing and prescribing the rights, privileges, qualifications and obligations of the members of each roster and prescribing the conditions for entry and maintenance of members in each roster;

(e) establishing admission standards for entrance to practical nursing programs;

(f) prescribing the time intervals for reviewing the approval of practical nursing education programs;

(g) prescribing legislation pursuant to Section 42, the violation of which may require a member to attend a hearing;

(h) providing for practice-hour requirements of members;

(i) providing that the licence of a member be suspended without notice or investigation upon contravention of any regulation that requires the member to pay a fee, file a document or do any other act by a specified or ascertainable date, and providing for the re-instatement of a licence so suspended upon payment of such fee as determined by the Board;

(j) respecting the ability of the Executive Director-Registrar, the Complaints Committee and the Professional Conduct Committee to impose a fine if the member has engaged in the practice of nursing while not holding a current licence;

(k) regulating the registration, licensing, professional conduct and re-instatement of members;

(l) respecting the requirements of a continuing competence program and limiting the duration of any active practising licence for non-compliance with the continuing competence program;

(m) respecting the verification of members' compliance with the continuing competence program;

(n) respecting appeal processes and powers of the Registration Appeal Committee when a licence or a temporary licence has been refused by the Executive Director-Registrar;

(o) respecting procedures with respect to settlement proposals;

(p) respecting the processes and procedures for the investigation of complaints and the disposition of such complaints;

(q) respecting the procedure to be followed at hearings by the Professional Conduct Committee and determinations that may be made by the Committee, including the ability to award costs;

(r) respecting the reporting and publication of decisions in disciplinary matters;

(s) respecting the revocation or suspension of licences issued pursuant to this Act and the re-instatement of such licences and allowing for conditions, limitations or restrictions to be attached to a re-instated licence;

(t) respecting the processes for voluntary resignation by a member of their licence to practise practical nursing;

(u) defining any word or expression used but not defined in this Act;

(v) further defining any word or expression defined in this Act;

(w) respecting and governing such other subjects, matters and things as may be required to give effect to the objects of the College and this Act.

(3) All regulations made pursuant to this Act are regulations within the meaning of the *Regulations Act*.

(4) All by-laws and regulations of the College shall be available for inspection by any person, free of charge, at the head office of the College at all reasonable times during business hours.

(5) A certificate purporting to be signed by the Executive Director-Registrar stating that a certain by-law or regulation of the College was, on a specified day or during a specified period, a duly enacted by-law or regulation of the College in full force and effect constitutes *prima facie* evidence in any court of that fact without proof that the person who signed it is the Executive Director-Registrar or that it is the Executive Director-Registrar's signature.

(6) Before changing any regulation or by-law pursuant to this Act, notification must be given to members of any proposed changes, and members must be given the opportunity to provide feed-back to the College with respect to the proposed changes.

PART III

REGISTRATION AND LICENSING

10 (1) The Board shall cause to be kept a Register and shall, upon payment of the prescribed fee, cause to be entered in the Register the name of any person who qualifies for registra-

tion according to this Act and the regulations together with such other information as required by the regulations.

(2) The College shall disclose to any person the licensing status and registration number of any member.

11 (1) The Board shall cause to be maintained separate rosters of licensing as provided by the regulations and shall maintain data respecting the names of the persons recorded in each roster.

(2) The name and qualifications of every person who, at the coming into force of this Act, is registered pursuant to the former Act, must be entered in the Register, but continue under any conditions or restrictions attached to the person's previous registration.

(3) The Executive Director-Registrar shall issue a licence to every person who, at the coming into force of this Act, is licenced pursuant to the former Act.

(4) Every licence issued pursuant to subsection (3) is subject to any conditions or limitations attached to the licence pursuant to the former Act.

12 (1) The Executive Director-Registrar shall issue an active practising licence to practise practical nursing to a person who meets the criteria for entry in the active-practising roster as outlined in the regulations.

(2) Where the Board has approved the completion of a continuing competence program as a criteria for entry into the active-practising roster and where a person has not completed the program, the Executive Director-Registrar may issue an active-practising licence limited for a specific period of time as set out in the regulations.

(3) Notwithstanding subsection (1), where the Executive Director-Registrar considers it is in the public interest to do so and where the member consents, an active practising licence issued pursuant to subsection (1) may be subject to conditions or restrictions.

13 (1) Where a person

(a) fails to meet the requirements or conditions for an active practising licence to practise practical nursing as prescribed by the regulations; or

(b) is licensed to practise practical nursing in another jurisdiction and it is otherwise impractical to issue an active practising licence,

the Executive Director-Registrar, upon payment of the prescribed fee, may approve, with or without limitations, or refuse an application for a temporary licence and shall notify the applicant accordingly.

(2) A temporary licence issued pursuant to subsection (1) must

(a) be issued for a specified period of time, not to exceed twelve months in total; and

(b) set out any restriction in the practise of practical nursing in which the licence-holder may engage.

(3) The College shall maintain a Record of Temporary Licences.

14 The Executive Director-Registrar shall give to an applicant who is refused an active practising licence or a temporary practising licence written reasons for the refusal, and the applicant may, by written notice, appeal that decision to the Registration Appeal Committee within thirty days of receipt of the written reasons.

15 (1) The Board shall appoint a Registration Appeal Committee, the membership of which consists of one non-member and two members from the active practicing roster.

(2) The Board shall appoint the Chair of the Registration Appeal Committee.

(3) A majority of the members of the Registration Appeal Committee constitutes a quorum.

(4) The Registration Appeal Committee shall perform such functions as are set out in the Act, the regulations and the by-laws.

(5) Each member on the Registration Appeal Committee has all the rights, powers and privileges of a commissioner appointed under the *Public Inquiries Act*.

16 (1) The Registration Appeal Committee shall

(a) set a date for the hearing of the appeal that is not later than sixty days following receipt of the written notice of appeal;

(b) serve written notice of the date, time and place for the hearing of the appeal upon the appellant and the Executive Director-Registrar; and

(c) advise the appellant of the right to

(i) be represented by legal counsel, a union representative or another representative at the expense of the appellant,

(ii) disclosure of any information to be provided by the College, and

(iii) a reasonable opportunity to present a response and make submissions.

(2) The parties to an appeal before the Registration Appeal Committee are the College and the appellant.

(3) Evidence is not admissible before the Registration Appeal Committee unless, at least ten days before the appeal, the opposing party has been given

(a) in the case of written or documentary evidence, an opportunity to examine the evidence;

(b) in the case of evidence of an expert, a copy of the expert's written report or, where there is no written report, a written summary of the evidence; and

(c) in the case of any other witness, the identity of the witness.

(4) Notwithstanding subsection (3), the Registration Appeal Committee may, in its discretion, allow the introduction of evidence that is otherwise inadmissible under subsection (3) and may make directions it considers necessary to ensure that a party is not prejudiced.

(5) In a proceeding before the Registration Appeal Committee the parties have the right to

(, present evidence and make submissions, including the right to cross-examine witnesses;

(b) receive written reasons for a decision within a reasonable time.

(6) At a hearing before the Registration Appeal Committee, all material relied upon by the Executive Director-Registrar in making the decision that is the subject of the appeal shall be provided to the Committee.

(7) In addition to the material provided to the Registration Appeal Committee pursuant to subsection (6), either party may present additional information to the Committee and may call witnesses.

(8) The testimony of witnesses at a hearing before the Committee must be taken under oath or affirmation.

17 (1) The Registration Appeal Committee in accordance with the information it receives, when hearing an appeal, may make any determination that, in its opinion, ought to have been made by the Executive Director-Registrar.

(2) The Registration Appeal Committee shall give its decision in writing and shall send to the applicant a copy of the written decision by registered mail or personal service.

(3) The decision of the Registration Appeal Committee is final.

18 A certificate of or purporting to be signed by the Executive Director-Registrar or other officer of the Board stating that a person named therein was or was not licensed as a licensed practical nurse under this Act at a time or during a period stated in the certificate is *prima facie* evidence in any court of that fact without proof that the person signing it is the Executive Director-Registrar or an officer of the Board.

19 Where the right of a member to practise as a licensed practical nurse has been limited by the imposition of restrictions pursuant to this Act or the regulations, particulars of all restrictions imposed on that person must be noted in the Register and on the member's licence during any time when such restrictions apply, unless the Executive Director-Registrar determines otherwise.

20 The Executive Director-Registrar shall annotate the Register if

(a) a person's name has been incorrectly entered;

(b) notification is received of a member's death;

(c) the registration of a person has been revoked;

(d) the Complaints Committee, as part of an informal resolution of a complaint, or the Professional Conduct Committee authorizes the resignation of a member from the register; or

(e) the member has requested in writing and the Executive Director-Registrar, as part of an informal resolution of a complaint or otherwise, has approved the resignation of the member,

and such person ceases to be a member of the College.

21 (1) The Executive Director-Registrar shall cause the removal of the name of a member from the appropriate roster

(a) if the member no longer meets the criteria for entry on the relevant roster;

(b) at the request of the member, upon surrendering any licence held by the member;

(c) if the member 's name has been incorrectly entered;

(d) if notification is received of the member 's death;

(e) for non-payment of fees or other assessments levied under this Act or the regulations;

(f) if the member has been suspended, for the term of the suspension;

(g) if the registration of the member has been revoked; or

(h) if the Professional Conduct Committee, the Complaints Committee or the Executive Director-Registrar authorizes the resignation of a member from the Register.

(2) The name of a person removed from the appropriate roster must be restored upon

(a) payment of the prescribed fee; and

(b) compliance by the person with this Act and the regulations.

(3) The name of a person removed from the Register pursuant to clause 20(d) or (e) or the appropriate roster pursuant to clause 21(1)(h) shall only be restored if

(a) the committee or the Executive Director-Registrar authorizing the resignation of the member permitted the member the opportunity to re-apply for membership in the College; and

(b) the Re-instatement Committee determines, on such conditions or with such restrictions as it directs, that the registration or licence should be re-instated.

22 (1) Every member who is engaged in the practice of practical nursing must hold a current licence under this Act.

(2) Every person, other than a client, who employs a person in the practice of practical nursing and every agency or registry that procures employment for a person in the practice of practical nursing shall

(a) ensure that the person, at the time of employment and each year employed thereafter, holds a current licence under this Act; and

(b) where the person's employment is terminated because of professional misconduct, conduct unbecoming the profession, incompetence or incapacity, report the matter to the Executive Director-Registrar forthwith and provide a copy of the report to the person whose employment is terminated.

23 (1) A member who engages in the practice of practical nursing outside the Province, who was subject to any disciplinary findings while outside the Province or has outstanding complaints from outside the Province, shall not engage in the practice of practical nursing on the member's return to the Province before providing the Executive Director-Registrar with notice of such disciplinary findings or complaints and receiving notice from the Executive Director-Registrar that the member is authorized to resume the practice of practical nursing in the Province.

(2) Where the Executive Director-Registrar receives notice pursuant to subsection (1), the Executive Director-Registrar may require the member to attend a hearing which shall be conducted in accordance with Section 42.

PART IV

PROHIBITIONS

24 No person shall engage in the practice of practical nursing in the Province unless that person

(a) is the holder of a current licence;

(b) is a student nurse enrolled in a practical-nursing education program and is required to engage in the practice of practical nursing in a course of the practical-nursing education program; or

(c) is permitted to engage in the practice of practical nursing as provided in this Act or the regulations, or as otherwise provided by law.

25 No member shall engage in the practice of licensed practical nursing that is outside that member's individual scope of practice.

26 (1) Except as provided in this Act or the regulations, no person, other than a holder of a current licence, shall

(a) publicly or privately, for hire, gain or hope of reward, practise or offer to practise practical nursing;

(b) hold himself or herself out in any way to be entitled to practise practical nursing;

(c) use the title "Licensed Practical Nurse" or "Practical Nurse" or assume any title or description implying or designed to lead the public to believe that that person is entitled to practise practical nursing; or

(d) use the designation "L.P.N.", "LPN", "P.N." or "PN" either alone or in combination with other words, letters or description, to imply that the person is entitled to practise practical nursing.

(2) No person is entitled to receive a fee, reward or remuneration for professional services rendered to any person in the practice of practical nursing unless licensed at the time the services were provided.

(3) Notwithstanding subsections (1) and (2), members whose names are entered in the graduate practising roster are permitted to engage in the practice of practical nursing within their individual scope of practise, and are permitted to use the designation "graduate practical nurse" or any derivation or abbreviation thereof.

27 (1) Every person who

(a) practises practical nursing in violation of any condition or limitation contained in the person's licence;

(b) practises practical nursing while the person's licence is suspended or revoked;

(c) practises practical nursing without a licence;

(d) knowingly furnishes false information in any application under this Act or in any statement required to be furnished under this Act or the regulations; or

(e) otherwise violates this Act or the regulations,

is guilty of an offence and liable on summary conviction to a fine of not more than two thousand dollars or to imprisonment for a term of not more than six months, or to both.

(2) The *Summary Proceedings Act* applies in addition to any other penalty otherwise provided for in this Act or the regulations.

(3) All fines and penalties payable under this Act as a result of a prosecution by or on behalf of the College belong to the College.

(4) Any information to be laid pursuant to this Act or the *Summary Proceedings Act* may be laid by the Executive Director-Registrar or any person authorized by the Board.

28 (1) In a prosecution for an offence contrary to this Act or the regulations, the onus of proof that a person accused of an offence has the right to practise practical nursing, or that a person comes within any of the exemptions provided by this Act, is on the person accused.

(2) Where a violation of this Act or the regulations by a person who does not have the right to practise practical nursing continues for more than one day, the offender is guilty of a separate offence for each day that the violation continues.

(3) For the purpose of this Act, proof of the performance of one act in the practice of practical nursing on one occasion is sufficient to establish that a person has engaged in the practice of practical nursing.

29 Nothing in this Act applies to or prevents

(a) the domestic administration of family remedies;

(b) the furnishing of first aid or emergency assistance in the case of emergency, if such aid or assistance is given without hire, gain or hope of reward;

(c) a person caring for an individual in a private residence without compensation;

(d) the practice of nursing by a person registered pursuant to the *Registered Nurses Act*; or

(e) the practice by a person of any other health discipline recognized by statute.

30 No person shall establish, maintain or conduct a program or course required for licensed practical nurses, or hold himself or herself out as being willing or able to educate or instruct persons to become licensed practical nurses except in compliance with this Act or the regulations.

31 **(1)** Where a member whose licence to practise has been suspended pursuant to this Act or the regulations does or attempts to do anything contrary to this Act or the regulations, the doing of such thing may be restrained by an injunction of the court at the instance of the Board.

(2) Where a person other than a member does or attempts to do anything contrary to this Act, the doing of such thing may be restrained by an injunction of the court at the instance of the Board.

(3) A judge may make such orders as to costs as the judge considers appropriate in any proceedings pursuant to this Section.

PART V

PROFESSIONAL CONDUCT PROCESS

32 **(1)** In accordance with the objects of the College, the professional conduct process shall seek to inhibit professional misconduct, conduct unbecoming the profession, incompetence and incapacity by investigating, on its own initiative or on the complaints of others, alleged instances of such misconduct, conduct unbecoming a licensed practical nurse, incompetence or incapacity and, where appropriate, disposing of the matter or matters in accordance with this Act and the regulations.

(2) Except where it is considered prejudicial to the attainment of the objects of the College, the professional conduct process shall take into account the potential for rehabilitation of the respondent,

33 Where a member of the College ceases to be registered or licensed for any reason, that person remains subject to the jurisdiction of the College in respect of any disciplinary matter arising out of the person's conduct while registered or licensed.

34 **(1)** The Board shall appoint a Complaints Committee composed of such number of members, non-members and public representatives as determined by the Board.

(2) No person on the Complaints Committee shall be a currently-serving board member.

(3) The Board shall appoint a Chair and a Vice-chair of the Complaints Committee.

(4) The Vice-chair shall act as Chair in the absence of the Chair.

(5) Whenever for any reason neither the Chair nor the Vice-chair are available, the Board may, for the purpose of a meeting, appoint a member of the Complaints Committee as Chair for that meeting.

(6) The Chair of the Complaints Committee shall appoint a panel of three persons from the Committee consisting of

(a) a licensed practical nurse;

(b) a public representative; and

(c) either a licensed practical nurse or non-member,

to act as the Complaints Committee for purposes of the professional conduct process.

(7) Two persons from the panel appointed pursuant to subsection (6), including at least one member, constitutes a quorum of the Complaints Committee.

(8) The Chair of the Complaints Committee may sit on the panel and shall act as the Chair of the panel in this event.

(9) Where the Chair of the Complaints Committee is not appointed to the panel, the Chair of the Committee shall appoint a Chair for the panel.

(10) Failure of one or more Complaints Committee members to receive any notice of a meeting does not invalidate the proceedings at that meeting, and nothing precludes the members from waiving notice of meetings.

(11) All decisions of a Complaints Committee require the vote of a majority of the panel of the Complaints Committee appointed pursuant to subsection (6).

(12) Where a proceeding is commenced before the Complaints Committee and the term of office of any person sitting on the Committee expires, that person may remain as a member of the Committee until the proceedings are concluded.

(13) Whenever for any reason neither the Chair nor the Vice-chair are available to appoint a panel, the Board may, for the purpose of a meeting, appoint an alternate member of the Complaints Committee as Chair of the Committee.

35 (1) The Board shall appoint a Fitness to Practise Committee composed of such number of members, non-members and public representatives as determined by the Board.

(2) The Board shall appoint a Chair and a Vice-chair of the Fitness to Practise Committee.

(3) The Vice-chair shall act as Chair in the absence of the Chair.

(4) Whenever for any reason neither the Chair nor the Vice-chair are available for the purposes of subsections (5), (6) and (7), the Board may, for such purposes, appoint a member of the Fitness to Practise Committee as Chair of the Fitness to Practise Committee.

(5) The Chair of the Fitness to Practise Committee shall appoint a panel of three persons from the Fitness to Practise Committee, one of whom shall be a non-member, to act as the Fitness to Practise Committee for purposes of the professional conduct process.

(6) The Chair of the Fitness to Practise Committee may sit on the panel and shall act as the Chair of the panel in this event.

(7) Where the Chair of the Fitness to Practise Committee is not appointed to the panel, the Chair of the Fitness to Practise Committee shall appoint a Chair for the panel.

(8) Any two persons from the panel appointed pursuant to subsection (5) regardless of whether such persons are members, public representatives or non-members, constitutes a quorum of the Fitness to Practise Committee.

(9) Failure of one or more Fitness to Practise Committee members to receive any notice of a meeting does not invalidate the proceedings at the meeting, and nothing precludes the members from waiving notice of meetings.

(10) All Fitness to Practise Committee decisions require the vote of a majority of the panel of the Fitness to Practise Committee appointed pursuant to subsection (5).

(11) Where a matter is referred to the Fitness to Practise Committee and the term of office of any person sitting on the Committee expires, that person may remain part of the Committee until the matter is concluded.

(12) The Fitness to Practise Committee shall perform the functions as set out in this Act and the regulations.

(13) The members of the Fitness to Practise Committee have all the powers, privileges and immunities of a commissioner appointed under the *Public Inquiries Act*.

(14) The Fitness to Practise Committee may set its own procedures for meetings.

36 **(1)** A complaint may be initiated by

(a) any body corporate or association;

(b) the Executive Director-Registrar; or

(c) any other person.

(2) Where the College and the complainant agree, a complaint may be withdrawn.

37 The Complaints Committee has all the powers conferred by this Act and the regulations in the discharge of its functions and the members of the Committee have all the powers, privileges and immunities of a commissioner appointed under the *Public Inquiries Act*.

38 **(1)** The Complaints Committee may set its own procedure for meetings and hearings.

(2) The Complaints Committee retains jurisdiction over a matter until such time as a hearing commences before the Professional Conduct Committee or the Professional Conduct Committee otherwise resolves the matter.

(3) Upon receipt of a complaint, the investigation must proceed in accordance with the regulations.

39 **(1)** Notwithstanding anything contained in this Act or the regulations, when a complaint involves allegations of incapacity or when a member, in the absence of a complaint, discloses to the College that a member may be incapacitated, the Executive Director-Registrar may refer the matter to the Fitness to Practise Committee in accordance with the regulations.

(2) Where a matter or matters are referred to the Fitness to Practise Committee, the matter or matters must be disposed of in accordance with the regulations.

(3) The Fitness to Practise Committee or the Executive Director-Registrar may refer a matter or matters to the Complaints Committee in the circumstances set out in the regulations.

(4) Where a matter is referred by the Fitness to Practise Committee or the Executive Director-Registrar to the Complaints Committee pursuant to subsection (3), the matter must be considered a complaint and be processed as any other complaint pursuant to this Act.

40 **(1)** A complaint must be disposed of in accordance with the regulations.

(2) Where a complaint is forwarded to the Complaints Committee for disposition, the Complaints Committee shall give its decision in writing and shall provide a copy of the decision to the complainant and the respondent and shall determine whether any aspects of the decision shall be provided to other nursing jurisdictions and any past, present or intended employer of the respondent, the public or such other person or persons as the Committee determines.

(3) In a proceeding before the Complaints Committee, a respondent has the right to

(a) be represented by legal counsel or another representative;

(b) disclosure of the complaint, any written reports of the investigator provided to the Complaints Committee and any other document produced or received by the Committee;

(c) a reasonable opportunity to present a response and make submissions.

(4) With respect to any decision issued by the Complaints Committee that is available to the public pursuant to this Act or the regulations, the Committee may impose a publication ban on such portions of its decision as deemed necessary by the Committee.

41 (1) A Complaints Committee, acting in good faith and in the public interest, may, at its discretion, direct the Executive Director-Registrar to

(a) suspend a licence;

(b) impose restrictions or conditions on a respondent's licence; or

(c) where a person does not hold a current licence, suspend the ability of the person to obtain a licence,

pending or following the completion of an investigation until the suspension or restrictions are lifted, superseded or annulled by the Complaints Committee or the Professional Conduct Committee, as the case may be.

(2) The member shall receive forthwith notice in writing, with reasons, of a decision made pursuant to subsection (1).

(3) A member who receives written notice pursuant to subsection (2) may request, in writing, an opportunity to meet with the Complaints Committee.

(4) Where a request is received pursuant to subsection (3), the Complaints Committee

(a) shall provide an opportunity for the respondent to meet with the Committee within ten days of the written request;

(b) after meeting with the member, may confirm, vary or terminate the suspension or restrictions imposed pursuant to subsection (1).

(5) Where a meeting is held pursuant to subsection (4), the respondent has the right to

(a) be represented by legal counsel, a union representative or another representative at the expense of the respondent;

(b) disclosure of the complaint, any written report of an investigator provided to the Committee and any other document produced or received by the Committee; and

(c) a reasonable opportunity to present a response and make submissions.

(6) Where the Complaints Committee issues an interim suspension, conditions or restrictions on a respondent's licence to practise practical nursing, the Committee shall provide a copy of the decision to the complainant and the respondent and shall determine whether any aspects of the Committee's decision must be provided to other nursing jurisdictions and any past, present or intended employer of the respondent, the public or such other person as the Committee determines.

42 (1) Notwithstanding anything contained in this Act or the regulations, where a person

(a) has been charged with, has pleaded guilty to, been convicted or found to be guilty in or out of Canada of any offence that is inconsistent with the proper professional behaviour of a member, including a conviction under

(i) the *Criminal Code* (Canada),

(ii) the *Controlled Drug and Substances Act* (Canada), or

(iii) such other legislation as prescribed in the regulations,

unless a pardon has been issued;

(b) has been found guilty of a disciplinary finding in another jurisdiction;

(c) has had a licensing sanction imposed by another jurisdiction; or

(d) is the subject of an investigation or disciplinary process in another jurisdiction,

and such person is a member or applies for registration or a licence or the renewal of a licence or where it is otherwise required pursuant to this Act or the regulations, the Executive Director-Registrar may, by reasonable notice, require the person to attend a hearing before the Complaints Committee to fully disclose the facts or circumstances of a matter referred to in clauses (a) to (e).

(2) For purposes of a hearing pursuant to subsection (1), the Complaints Committee may, where it deems it proper, take any of the actions authorized to be taken by the Committee pursuant to this Act or the regulations.

(3) For the purpose of subsection (1), a certificate of conviction of a member is conclusive evidence that the member has committed the offence stated in the certificate, unless it is proved that the conviction has been quashed or set aside.

(4) When a member or a person holding a temporary licence meets the criteria pursuant to subsection (1), the member or holder of the temporary licence shall report the matter to the Executive Director-Registrar immediately.

43 (1) All complaints received or under investigation, all proceedings of the Complaints Committee and all proceedings of the Professional Conduct Committee that are not open to or available to the public in accordance with this Act or the regulations must be kept confidential by the person or persons who possess such information.

(2) Notwithstanding subsection (1), where it is consistent with the objects of the College

(a) the Executive Director-Registrar on the recommendation of the Complaints Committee, the Fitness to Practise Committee or the Professional Conduct Committee may disclose to law enforcement authorities any information about possible criminal activity on the part of a member that is obtained during an investigation pursuant to this Act;

(b) the Complaints Committee, the Fitness to Practise Committee or the Professional Conduct Committee may authorize the Executive Director-Registrar to release specific information to a specific person or persons;

(c) the Executive Director-Registrar may disclose information with respect to the complaint or a matter before the Fitness to Practise Committee to an extra-provincial nursing regulatory body when it is relevant and concerns the fitness of the member for membership in the extra-provincial nursing regulatory body; and

(d) the Executive Director-Registrar may disclose information with respect to a complaint for purposes of administration of this Act or to comply with the objects of the College.

(3) A witness in any legal proceeding, whether a party to the proceeding or not, is excused from answering any questions as to any proceedings of the Complaints Committee, the Fitness to Practise Committee, the Professional Conduct Committee or the Re-instatement Committee, and is excused from producing any report, statement, memorandum, recommendation, document or information prepared for purposes of the professional conduct process, including any information gathered in the course of an investigation or produced for the Complaints Committee, the Fitness to Practise Committee, the Professional Conduct Committee or the Re-instatement Committee.

(4) Subsection (3) does not apply to documents or records that have been made available to the public by the College.

(5) Unless otherwise determined by a court of competent jurisdiction, a decision of the Complaints Committee or the Professional Conduct Committee is not admissible in a civil proceeding other than an appeal or review pursuant to this Act.

44 (1) The Board shall appoint a Professional Conduct Committee comprised of such number of members, non-members and public representatives as determined by the Board.

(2) The Board shall appoint a Chair and a Vice-chair of the Professional Conduct Committee.

(3) The Vice-chair shall act as Chair in the absence of the Chair.

(4) Whenever for any reason neither the Chair nor the Vice-chair are available for a meeting or a hearing, the Board may, for the purpose of such meeting or hearing, appoint a member of the Professional Conduct Committee as Chair of the Committee.

(5) The Chair of the Professional Conduct Committee shall appoint a panel of five persons from the Committee consisting of

(a) three licensed practical nurses;

(b) a public representative; and

(c) either a licensed practical nurse, public representative or non-member,

to act as the Professional Conduct Committee for purposes of the professional conduct process.

(6) Any three persons from the panel appointed pursuant to subsection (5), regardless of whether such persons are members or non-members or public representatives, constitutes a quorum of the Professional Conduct Committee.

(7) The Chair of the Professional Conduct Committee may sit on the panel and shall act as the Chair of the panel in this event.

(8) Where the Chair of the Professional Conduct Committee is not appointed to the panel, the Chair of the Committee shall appoint a Chair for such panel.

(9) Where a proceeding is commenced before the Professional Conduct Committee and the term of office of any person sitting on the Committee expires, that person may remain part of the Committee until the proceeding is concluded.

(10) All decisions of the Professional Conduct Committee require the vote of a majority of the panel of the Committee appointed pursuant to subsection (5) or the quorum of the panel in the event the full panel is not sitting.

(11) No person on the Professional Conduct Committee may concurrently serve on the Complaints Committee.

(12) No person serving on the Professional Conduct Committee shall be a current Board member.

(13) Failure of one or more members of the Professional Conduct Committee to receive any notice of a meeting does not invalidate the proceedings and nothing precludes committee members from waiving notice of meetings.

45 (1) Where the Complaints Committee refers a matter to the Professional Conduct Committee, the Executive Director-Registrar shall, within thirty days from the date of the referral, fix a date, time and place for holding a hearing, which shall commence not later than ninety days from the date of the referral, unless otherwise agreed upon by both parties, or such later date as the respondent and the College may agree or the Professional Conduct Committee may order following an opportunity for submissions from both parties as to such date.

(2) A notice of hearing, containing such information as required by the regulations, must be forwarded by the Executive Director-Registrar to the respondent and the complainant at least thirty days prior to the hearing.

46 At any stage of the professional conduct process, any document required to be served or provided to a respondent or other individual is deemed to be served or provided to the respondent or other individual where

(a) the respondent or the respondent's counsel acknowledges receipt of the document;

(b) a registered mail receipt is provided from Canada Post;

(c) an affidavit of service on the respondent is provided; or

(d) where the College provides evidence satisfactory to the Professional Conduct Committee that all reasonable efforts to effect service have been exhausted.

47 Where a Complaints Committee refers a matter to the Professional Conduct Committee, the Complaints Committee, before the commencement of a hearing by the Professional Conduct Committee, may enter into a settlement proposal with the respondent, which proposal must be dealt with in accordance with the regulations.

48 Each member of the Professional Conduct Committee has all the rights, powers, and privileges of a commissioner appointed under the *Public Inquiries Act*.

49 **(1)** A hearing held by the Professional Conduct Committee shall be conducted in accordance with the regulations.

(2) In a proceeding before the Professional Conduct Committee, the parties have the right to

(a) be represented by legal counsel or another representative;

(b) the opportunity to present evidence and make submissions, including the right to cross-examine witnesses; and

(c) receive written reasons for a decision within a reasonable time.

(3) Evidence is not admissible before the Professional Conduct Committee unless the opposing party has been given at least ten days before the hearing

(a) in the case of written or documentary evidence, an opportunity to examine the evidence;

(b) in the case of evidence of an expert, a copy of the expert's written report or, if there is no written report, a written summary of the evidence; and

(c) in the case of evidence of a witness, the identity of the witness.

(4) Notwithstanding subsection (3), the Professional Conduct Committee may, in its discretion, allow the introduction of evidence that would be otherwise inadmissible under subsection (3) and may make directions it considers necessary to ensure that a party is not prejudiced.

(5) The College shall make a reasonable effort to disclose the evidence upon which it intends to rely in sufficient time for the respondent to prepare for the hearing and failure to disclose the evidence entitles the respondent to an adjournment in order to so prepare.

50 **(1)** Where the Professional Conduct Committee finds professional misconduct, conduct unbecoming the profession, incompetence or incapacity, the Committee shall dispose of the matter or matters in accordance with the regulations.

(2) Where the Professional Conduct Committee revokes the registration of a member, the Committee shall determine whether the member is entitled to apply for re-instatement of registration or whether the revocation is final.

(3) Where the Professional Conduct Committee determines that a member whose registration has been revoked may apply for re-instatement, the Committee shall determine the time when the member may apply for re-instatement which cannot be earlier than two years from the date of the Committee's decision.

51 **(1)** The Board shall appoint a Re-instatement Committee, comprised of three members of the Board, at least one of whom must be a public representative.

(2) The Board shall appoint the Chair of the Re-instatement Committee.

(3) The Re-instatement Committee shall, in the circumstances set out in this Act and the regulations, review applications for re-instatement of registration and licence and shall perform the duties as set out in this Act and the regulations.

(4) A quorum of the Re-instatement Committee consists of any two members of the Committee, regardless of whether the members are members or public representatives.

(5) Where the Professional Conduct Committee determines that a member whose licence has been revoked may apply for re-instatement following the expiration of such period of time as set by the Committee, the member may apply to the Committee in writing for re-instatement.

(6) In an application pursuant to subsection (5), the burden of proof is on the respondent to prove to the satisfaction of the Re-instatement Committee that the objects of the College will be served by terminating the order of revocation.

(7) Applications for re-instatement must proceed in accordance with the regulations.

(8) Where a member's licence has been re-instated pursuant to this Section, the Re-instatement Committee, in its discretion, shall determine whether publication of the re-instatement is required in the interest of the public.

(9) Each person on the Re-instatement Committee has all the rights, powers and privileges of a commissioner appointed under the *Public Inquiries Act*.

(10) In a proceeding before the Re-instatement Committee, a member has the right to

(a) be represented by legal counsel, a union representative or another representative at the member's expense;

(b) disclosure of any information to be provided to the Committee; and

(c) a reasonable opportunity to present a response and make submissions.

(11) Evidence is not admissible before the Re-instatement Committee unless, at least ten days before the hearing, the opposing party has been given

(a) in the case of written or documentary evidence, an opportunity to examine the evidence;

(b) in the case of evidence of an expert, a copy of the expert's written report or, where there is no written report, a written summary of the evidence; and

(c) in the case of evidence of any other witness, the identity of the witness.

(12) Notwithstanding subsection (11), the Re-instatement Committee may, in its discretion, allow the introduction of evidence that is otherwise inadmissible under subsection (11) and may make directions it considers necessary to ensure that a party is not prejudiced.

52 (1) Subject to any publication bans in existence, where a licensing sanction has been issued by the Complaints Committee or the Professional Conduct Committee, the Executive Director-Registrar shall

(a) make such entries on the records of the College and on the licence of the member as set out in the regulations;

(b) publish such information on the website of the College and in official publications of the College as set out in the regulations;

(c) notify other nursing licensing bodies as set out in the regulations; and

(d) provide such information to individuals or the public as set out in the regulations.

(2) Where a Professional Conduct Committee dismisses a matter, it shall disclose its decision in such manner as it determines.

53 (1) Where the period of suspension of a member has expired, the conditions imposed on the member have been satisfied or the restrictions imposed on the member have been removed, the Executive Director-Registrar shall restore the licence to the member in the form it existed prior to the decision of the Professional Conduct Committee, if the member otherwise meets the criteria for the issuing of a licence but, where the licence has expired, the member shall pay the prescribed fee for renewal of the licence before its re-issue.

(2) Where action has been taken pursuant to subsection (1),

(a) the Executive Director-Registrar shall make the appropriate entries in the Register;

(b) where registering bodies in other Canadian nursing jurisdictions had previously been informed of the suspension, conditions or restrictions, the Executive Director-Registrar shall notify such registering bodies of the lifting of the suspension, conditions or restrictions;

(c) the Executive Director-Registrar shall notify the current employer of the member if deemed necessary by the Professional Conduct Committee; and

(d) the Professional Conduct Committee, in its discretion, may inform or direct the Executive Director-Registrar to inform other persons of the lifting of the suspension, conditions or restrictions.

54 For the purpose of the execution of their duties under this Act, the College, the Complaints Committee or the Professional Conduct Committee may retain such legal or other assistance as the College, the Complaints Committee or the Professional Conduct Committee thinks necessary or proper, and the costs of such legal or other assistance may be included, in whole or in part, as costs ordered by the Professional Conduct Committee.

55 (1) A member may appeal on any point of law from the findings of the Professional Conduct Committee to the Nova Scotia Court of Appeal.

(2) The notice of appeal must be filed at the Nova Scotia Court of Appeal and served upon the other party not later than thirty days after the decision of the Professional Conduct Committee.

(3) The record on appeal from the findings of the Professional Conduct Committee consists of a copy of the transcript of the proceedings, the decision of the Committee and the evidence before the Committee certified by the Chair of the Committee.

(4) The *Civil Procedure Rules*, governing appeals from the Supreme Court of Nova Scotia to the Nova Scotia Court of Appeal, that are not inconsistent with this Act, apply *mutatis mutandis* to appeals to the Court of Appeal pursuant to this Section.

(5) Where a matter is appealed to the Nova Scotia Court of Appeal pursuant to this Section, the decision of the Professional Conduct Committee takes effect immediately unless the Court of Appeal grants a stay of any order made pursuant to this Act where, in its discretion, it deems fit.

PART VI

EDUCATION COMMITTEE

56 (1) The Board shall appoint an Education Committee composed of such number of persons as determined by the Board, at least one of whom must a public representative.

(2) The Board shall appoint a Chair of the Education Committee.

(3) The term of office of members of the Education Committee shall be determined by the Board.

(4) The Education Committee shall perform such functions as are set out in this Act, the regulations and the by-laws.

57 The Education Committee shall advise and make recommendations to the Board to enable the Board to

(a) establish standards for practical nursing education programs that ensure that

(i) the curriculum provides the necessary learning experiences for students to achieve professional practice and ethical standards, and the competency requirements for beginning practitioners,

(ii) program activities and resources support the achievement of program goals and outcomes,

(iii) the program provides students with opportunities to demonstrate progress toward achieving professional practice and ethical standards, and the competency requirements for beginning practitioners, and

(iv) the program prepares graduates to practise according to professional practice and ethical standards, and the competency requirements for beginning practitioners;

(b) at such time intervals as set out in the regulations, approve practical nursing education programs that meet the standards as approved by the Board;

(c) deny or withdraw approval of practical nursing education programs that do not meet the standards approved by the Board;

(d) approve, conditionally approve or deny approval of new practical nursing education programs or changes in existing practical nursing education programs in accordance with the standards approved by the Board;

(e) approve such other education programs and re-entry programs as determined by the Board; or

(f) perform such other functions as designated in this Act and the regulations.

58 A majority of the members of the Education Committee constitutes a quorum of the Committee.

59 All practical nursing education programs approved by the College immediately before the coming into force of this Act are deemed to be approved by the Board pursuant to this Act until the approval is withdrawn.

PART VII

GENERAL

60 (1) A member has a duty to report to the Executive Director-Registrar if the member has reasonable grounds to believe that another member

(a) has engaged in professional misconduct, incompetence or conduct unbecoming the profession;

(b) is incapacitated; or

(c) is practising in a manner that otherwise constitutes a danger to the public.

(2) A member has a duty to report to the regulator of another health profession if the member has reasonable grounds to believe that a member of that health profession

(a) has engaged in professional misconduct, incompetence or conduct unbecoming the profession;

(b) is incapacitated; or

(c) is practising in a manner that otherwise constitutes a danger to the public.

(3) No action for damages or other relief lies against a member for any report made pursuant to subsection (1) or (2) if such report was made in good faith.

61 Any fine or costs ordered to be paid pursuant to this Act or the regulations is a debt due to the College recoverable by civil action, in addition to any other remedy available to the College for non-payment of a fine or costs.

62 (1) Where the Board has approved a continuing competence program as a pre-requisite for the issuing of a licence, applicants for such licence must complete the requirements of the continuing competence program in accordance with the regulations.

(2) Notwithstanding any enactment, where a continuing competence program requires the preparation of a self-assessment tool, no person is authorized to disclose or is required to disclose in a legal proceeding or in any proceeding pursuant to this Act or the regulations, any information or documents relating to the content of a member's self-assessment tool without the express consent of the author.

(3) Where a member provides a copy of the member's self-assessment tool to another person, the provision by that member of a copy of the self-assessment tool is not by itself deemed to be consent for the purpose of subsection (2).

(4) Subject to subsection (2), a witness in a legal proceeding must answer any question or produce any document that the witness is otherwise bound by law to answer or produce.

(5) A witness in a legal proceeding or in any proceeding pursuant to this Act or the regulations, whether or not the witness is a party to the proceeding, is excused from

(a) providing any information obtained by the witness regarding a member's self-assessment tool; and

(b) producing a document regarding a member's self-assessment tool.

(6) Subsections (2) and (5) do not apply to original medical and hospital records pertaining to a patient.

63 (1) No action for damages lies against the College, the Board, members of the Board, committees or subcommittees of the College or Board, or members thereof, or the Executive Director-Registrar, officers, agents or employees of the College for

(a) any act or failure to act, or any proceeding initiated or taken, in good faith under this Act, or in carrying out the duties or obligations under this Act; or

(b) any decision, order or resolution made or enforced in good faith under this Act.

(2) No action lies against any person for the disclosure of any information or any document or anything therein pursuant to this Act unless such disclosure is made with malice.

(3) No member of the College, the Board, a committee or subcommittee of the College or Board or any officer, agent or employee thereof is personally liable for any of the debts or liabilities of the College unless such person expressly agrees to be liable.

64 (1) For greater certainty,

(a) a complaint made pursuant to the former Act shall continue to be proceeded with in accordance with this Act as nearly as circumstances permit; and

(b) in respect of a complaint referred to in clause (a), the Complaints Committee appointed pursuant to the former Act and its regulations is deemed to be the Complaints Committee appointed pursuant to this Act.

(2) Upon the coming into force of this Act, any matter pending before the complaints committee that would properly form the subject of a matter to be heard by the Fitness to Practise Committee pursuant to this Act, must be transferred to the Fitness to Practise Committee for determination and processing.

(3) Upon the coming into force of this Act, where a hearing is not commenced, any matter pending before a professional conduct committee that would properly form the subject of a matter to be heard by the Fitness to Practise Committee pursuant to this Act, may, by agreement of the College and the respondent, be transferred to the Fitness to Practise Committee for determination and processing.

65 Whenever for any reason a quorum of members of any committee may not be available for a meeting or hearing, the Board may, for the purpose of such meeting or hearing, appoint to the committee such additional members as are needed for a quorum.

66 Nothing in this Act prohibits

(a) the practice by a person of medicine, dentistry, pharmacy or optometry or, subject to clauses (b) and (c), any other health discipline recognized by statute;

(b) the practice by registered nurses and nurse practitioners of acts approved for practise pursuant to the provisions of the *Medical Act*;

(c) the practice of nursing by a person who is licensed as a registered nurse or a nurse practitioner and who holds a current licence under the *Registered Nurses Act*;

(d) the provision of services for compensation, other than the practice of practical nursing, at an institution or place that is subject to or providing a service pursuant to the *Children and Family Services Act*, the *Day Care Act*, the *Homemakers' Services Act*, the *Homes for Special Care Act* or the *Social Assistance Act*;

(e) caring for someone in a private residence with or without compensation by a person who does not assume to be or hold himself or herself out to be a licensed practical nurse; or

(f) the right of employees to engage in a lawful strike.

67 The former Act is repealed.

68 This Act comes into force on such day as the Governor in Council orders and declares by proclamation.